CF0000061209

Jail-189 / (Jail)
G.J.P.R. 11/94/2,000

CA 719/96

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APPEAL OF PRISONER

Division Bench (Criminal)

No. 3719/51 Name पुनितराम बेसारकु

Father's name बेसारकु साकिन कोमपुरा थाना - मैचपुर

Residence जिला - रायपुर (म.प्र.) Age 48 वर्ष

Sentenced to आजीवन कारावास On 29-3-96

Under section 302 भा.दं.वि. by जिला एवं सत्र न्यायाधीश - रायपुर (म.प्र.)

S.T.No. 69/95

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement ....

2 Date on which copy received 29-3-96

3 Date on which Appeal sent ....

4 Whether the prisoner wishes to be represented or not – Yes / No

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No. 3719 Name पुनितराम S/o बेसारकु

Confined in के-द्रीय Jail रायपुर (म.प्र.)

No. 343 / विधि / 96 Dated 2/4/ 1996

Forwarded to the ~~CHIEF JUDICIAL MAGISTRATE~~ अति. पंजीयक मध्यप्रदेश उच्च न्यायालय जबलपुर (म.प्र.)

together which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

नोट - S.T.No. 69/95 की प्रमाणित निर्णय प्रति।

Superintendent
अधीक्षक,
केन्द्रीय जेल, रायपुर, (म.प्र.)

Date of receipt in ..... office .....

Date of receipt record to accompany the .....

Memo of Appeal to the Appellate court .....

No. ..... Dated ..... 199.....

Forwarded to the ..... JAIL

High Court of M.P.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक Cr.A.No. 719/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO. 719 of 1996

Appellant : Puneet Ram

Vs.

Respondent : State of Madhya Pradesh

Shri Ashok Dixit, learned counsel for the appellant.

Shri U.N.S.Deo, learned G.A. for the respondent/State.

ORAL JUDGMENT
(06.03.2006)

L.C.Bhadoo, J

By this appeal under Section 374(2) of the Criminal Procedure Code the accused/appellant has questioned the legality and correctness of the impugned judgment dated 29.03.96 passed in S.T. No. 69/95 whereby the learned Second Additional Sessions Judge, Raipur after holding the accused/appellant guilty for committing the murder of one Suna Ram convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life.

2. Case of the prosecution, in brief, is that P.W.-3 Vishram lodged the report P-5 in the police station Mainpur to the effect that at about 7-8.00 p.m. he was at his residence when he heard the noise and cries, on which he enquired from his aunt Sukhmati Bai and Ganga Ram. On enquiry they informed that Puneet Ram and Suna Ram both the brothers were

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आदेश पत्रक

मामला क्रमांक Cr.A No. 719/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

quarrelling and Puneet Ram has attacked Suna Ram with hands and fists as a result of which Suna Ram vomitted blood, thereafter he became unconscious and after some time he died. In the night he informed about the incident to Tailor Singh and his father in law Itwari Singh as he was suffering from fever and it was night time. Moreover, the road to the police station is passing through the forest therefore he could not report. The next day morning he informed Harpal Singh, Sarpanch, who asked that since Suna Ram has died because of quarrel and *maar peet* therefore Kotwar be informed and thereafter along with the Kotwar he came and reported the matter in the police station. Receiving this report the Station House Officer, Mainpur registered the crime No. 61/94 for commission of the offence under Section 302 of the IPC and took up the investigation. After completion of the investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Gariyaband under Section 302 of the IPC against accused/appellant Puneet Ram who in turn committed the case to the Sessions Judge, Raipur from where the learned Second Additional Sessions Judge, Raipur received the case on transfer for trial.

3. The prosecution in order to establish the charge against the accused/appellant examined sixteen witnesses. Statement of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that the witnesses are liars.

4. After hearing the arguments of the Additional Public Prosecutor and counsel for the accused/appellant, learned Additional Sessions Judge

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आदेश पत्रक

मामला क्रमांक Cr. A. No. 119/15 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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	convicted and sentenced the accused/appellant as mentioned in paragraph one of the judgment.	
	5. We have heard Shri Ashok Dixit, learned counsel on behalf of the accused/appellant and Shri U.N.S.Deo, learned G.A. on behalf of the State.	
	6. Homicidal death of Suna Ram is not is dispute.	
	7. As far as the involvement of the accused/appellant in committing the crime in question is concerned, it is admitted position that the accused is the real brother of deceased. There was dispute regarding land as the land was in the name of accused/appellant Puneet Ram whereas deceased Suna Ram was cultivating the same and was not giving the possession of the same to Puneet Ram. P.W.-4 Sukhmat Bai is the eye witness who has stated that Puneet Ram is his brother in law and his son Madho Singh is residing with Suna Ram. On the fateful day, Mansha Ram was also at the residence of Suna Ram. At about 7.00 p.m. Suna Ram went for sleep and she was sitting after finishing her work. Mansha Ram was also present there at that time Puneet Ram came and started assaulting Suna Ram on his stomach and also kicked him. When she tried to intervene he pushed her. Suna Ram died on the spot..	
	8. Similar is the evidence of P.W.-13 Mansha Ram who has also stated that on the fateful night he was at the residence of Suna Ram. Puneet Ram came and asked Suna Ram as to how he has transferred the land in the name of Matwargada, whether he is his father. Thereafter Puneet Ram	

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आदेश पत्रक

मामला क्रमांक C.A. No. 719/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

abused Suna Ram and also scolded him and they indulged in scuffle. At this Mansha Ram intervened as both were abusing each other, after separating them he saw that blood was coming out of the mouth and nose of Suna Ram. Sukhmat Bai was also present there and Suna Ram died spontaneously.

9. P.W. -14 Dr. Sunil Singh has stated that he conducted the post mortem on the body of Suna Ram on 05.12.94 and found that there was swelling on the chest. He has further stated that the spleen was ruptured and he died on account of Hemorrhage and shock. His report is P-12. Therefore in view of the above evidence it is established that there was dispute among the brothers regarding land and accused/appellant Puneet Ram after abusing started assaulting Suna Ram with hands, fists and kicks as a result of which Suna Ram received injuries and his spleen was ruptured. He died on account of Hemorrhage and shock.

10. From the above facts it could not be inferred or said that Puneet Ram attacked the deceased with the intention to cause his death because Puneet Ram assaulted only with the hands and fists, however, the spleen of Suna Ram was ruptured therefore the intention of the accused Puneet Ram to cause death of Suna Ram is not established by the prosecution.

11. In the circumstances, the conviction and sentence imposed upon the accused/appellant under Section 302 of the IPC cannot be sustained. However the manner in which the accused attacked Suna Ram on his stomach with kicks and fists, it can be attributed that the accused had

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

knowledge that by assaulting in that manner he may cause death of Suna Ram.

12. In view of the aforesaid discussions, in our considered opinion the offence committed by the appellant does not travel beyond Section 304-II of the IPC.

13. In the result the appeal partly succeeds. Conviction and sentence imposed upon the accused/appellant under section 302 of the IPC are set aside and instead thereof the accused is convicted under section 304-II of the IPC and sentenced to undergo RI for ten years. Since the accused is in custody since 1994 and thereby he has already completed the sentence imposed on him, it is directed that the accused be set at liberty forthwith if not required in any other case.

Sd/-
L.C.BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge